

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

OLIVA SUPERMARKETS LLC AND
RL MARKETS LLC, AS ALTER EGOS
AND/OR SINGLE EMPLOYER

and

Case 22-CA-130315

UNITED FOOD & COMMERCIAL
WORKERS, LOCAL 464-A

ORDER¹

The Petitions to Revoke subpoena duces tecum B-726573, addressed to the Custodian of Records of Santander Bank, are denied. The Petitioners, Oliva Supermarkets and V & V Supermarkets, do not have standing to file petitions to revoke a subpoena that is addressed to a third party unless they assert that the requested information is protected by a privilege or a right of privacy.² In addition, even assuming that the Petitioners have such standing, we find that the subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² “Ordinarily a party has no standing to seek to quash a subpoena issued to someone who is not a party to the action unless the party claims some personal right or privilege with regard to the documents sought.” *In re Grand Jury Subpoena John Doe, No. 05GJ1318*, 584 F.3d 175, 184 n. 14 (2009) citing 9A Wright & Miller, *Federal Practice and Procedure* §2459 (1995). Member Johnson would find that the Petitioners have a privacy interest in their bank records that gives them standing to challenge a subpoena addressed to the bank for those records. See, e.g., *Schulovich v. 1161 Rt. 9, LLC*, WL 2362598, at *2–3 (D.N.J. Aug. 15, 2007) (“Personal rights claimed with respect to bank account records give a party sufficient standing to challenge a third party subpoena served upon financial institutions holding such information”). He agrees that the Petitioners have not established a basis for revoking the subpoena.

Board's Rules and Regulations. Further, the Petitioners have failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., October 27, 2014

MARK GASTON PEARCE,	CHAIRMAN
HARRY I. JOHNSON, III,	MEMBER
NANCY SCHIFFER,	MEMBER